

R Kirk comments.txt

Comment Info: =====

General Comment: Minerals Management Service  
Attention: Regulations and Standards Branch (RSB)  
381 Elden Street, MC#4024;  
Herndon, Virginia 20170#4817

Subject: Royalty Relief for Deepwater OSC Oil and Gas Leases#Conforming  
Regulations to Court Decision, 1010-AD29 (Docket ID: MMS#2007#0MM#0074

Thank you for the opportunity to comment on Royalty Relief for Deepwater OSC oil and gas leases. I am writing in support of the proposed amendments to MMS regulations interpreting section 304 of the Deep Water Royalty Relief Act (DWRRA). Section 304 of the DWRRA clearly and unambiguously requires minimum royalty relief and specifies the specified volumes of royalty free production. Thus, I agree with the proposed amendments to conform regulations to the Fifth Circuit's holding in Santa Fe Snyder Corp., et al. v. Norton, that MMS had no discretion to implement royalty relief on a field basis, and could not deny relief new leases issued to a field that had leases producing prior to the DWRRA. As the court found in Snyder, Congress clearly provided that royalty relief shall be set at the volume levels provided in the statute, thus removing the discretion to fashion royalty relief from MMS.

The DWRRA was designed to encourage development of new supplies of energy by offering incentives to promote investment in the deep waters of the Gulf of Mexico, a high-risk and high-cost area. The Act has been largely successful in that deep water exploration and production in the Gulf of Mexico has drastically increased since its enactment, making the Gulf of Mexico an important source of domestic oil and gas production. In return for companies' substantial investment and the great risk associated with exploration and production in the deep waters of the Gulf of Mexico, the Act provided for relief from royalty payments until certain volumes of oil were produced for new leases issued in the 5 years following enactment of the Act. This relief was substantially lessened by the current regulations which implemented royalty relief on a field, rather than lease, basis.

While allowing companies to produce the volumes of royalty-free production specified in 304 will no doubt drastically reduce the amount of royalties paid to the Federal government, this was apparent since the DWRRA's enactment. Oil and gas companies involved in exploration and development in the deep waters of the Gulf of Mexico have taken substantial risk and expended billions of dollars. The Federal government is not being denied anything it is owed, rather, it is keeping its end of the bargain. Moreover, the Federal government is still profiting from lease bonuses, royalties, and incomes taxes on deepwater production and will continue to benefit as volume thresholds are exceeded and royalty becomes due.

Thank you for consideration of my comments.

Sincerely,

R. Kirk